

# HOUSE . . . . . No. 44

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Accompanying the fourteenth recommendation of the Executive Office of Public Safety and Security (House, No. 30). Public Safety and Homeland Security.

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## The Commonwealth of Massachusetts

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In the Year Two Thousand and Nine.

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### AN ACT RELATIVE TO AMUSEMENT DEVICES.

*Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:*

1       SECTION 1. Chapter 140 of the General Laws is hereby amended by striking out section  
2       205A, as appearing in the 2006 Official Edition, and inserting in place thereof the following  
3       section:-

4       Section 205A. Operation of Amusement Devices

5       (a) Amusement Device Defined

6       “Amusement Device” shall mean a fixed or portable mechanical device similar to, but not  
7       limited to ferris wheels, carousels, inclined railways or similar devices including inflatable, as  
8       well as amusement devices as defined by the American Society for Testing and Materials  
9       (ASTM). Go karts, concession go kart and other mechanical devices that are confined to one path  
10      of travel shall be considered an amusement device per path of travel for purposes of this section.  
11      This section shall not apply to recreational tramways as defined by section 71I of chapter 143,  
12      coin operated amusement rides or devices, skill games or playground equipment; provided  
13      however that the commissioner of public safety, hereinafter called the commissioner, shall have  
14      the discretion to further define an amusement device operated under this section.

15      (b) License; Insurance Requirement; fees

16      (1) For the purposes of this section, the commissioner shall adopt rules and regulations  
17      establishing standards for the design, construction, inspection and operation of amusement  
18      devices for the safety of the public and criteria and procedures for the issuance, denial, renewal,  
19      suspension and revocation of a license and permit for the operation of amusement devices;  
20      provided, however, that a final adjudication that there has been a violation of federal law, state  
21      law or any other rule adopted by the department, shall be cause for the denial, suspension or

22 revocation of any license issued under this section. The operation of amusement devices in  
23 violation of the regulations or without a valid license and permit shall be considered a punishable  
24 violation for the purposes of this section.

25 (2) No person shall individually or through an agent operate or cause to be operated an  
26 amusement device unless such person has obtained a license and permit from the commissioner.

27 (3) The commissioner, upon receipt of proof that a person has obtained liability insurance as  
28 required by this section and upon certification that an amusement device has met the standards  
29 established by the commissioner, may issue a license and permit for the operation of the  
30 amusement devices.

31 (4) A person who possesses a Massachusetts certificate of competency to inspect amusement  
32 devices, issued under section 62 of chapter 146, and who has furnished to the commissioner proof  
33 of liability insurance for an amount of at least \$1,000,000 for general liability, shall provide to the  
34 commissioner an inspection report and a certificate of liability.

35 (5) The fee for a license under this section shall be determined annually by said commissioner  
36 of administration and finance under section 3B of chapter 7 for the filing thereof. All licenses  
37 issued pursuant to this section shall expire annually on a date determined by the commissioner or  
38 on the date that the insurance certificate is no longer valid, which ever occurs sooner, unless  
39 revoked for cause, and shall be valid throughout the commonwealth.

40 (c) Itinerary

41 An owner shall be required to provide proper notice as further determined by the  
42 commissioner as to the location and dates that the amusement device will be operated in the  
43 commonwealth.

44 (d) Injury

45 If an injury requiring medical treatment has occurred on such an amusement device,  
46 reasonably due to a defect or malfunction in the amusement device, or if the amusement device  
47 constitutes a hazard to life, limb, or property, as determined by the commissioner or his designee,  
48 the amusement device shall be closed immediately and, within 1 hour, the owner shall notify the  
49 commissioner or his designee in writing upon a form approved by the commissioner. The  
50 amusement device shall remain closed until all necessary repairs have been completed to the  
51 satisfaction of the commissioner or his designee. All such injuries shall be investigated by the  
52 department of public safety in coordination with the Massachusetts state police. Failure to follow  
53 this provision shall constitute the operation of an unsafe ride and shall be punishable by a fine not  
54 to exceed \$5,000.00 or by imprisonment for not more than one year, or both. The licensee shall

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pay to the commissioner a fee as determined under section 3B of chapter 7 for each hour or fraction thereof spent by each inspector while engaged in an investigation.

### (e) Identification of Amusement Device

All amusement devices shall bear identification as determined by the commissioner.

### (f) Inspection

All persons authorized by this section to conduct inspections and not employed by the department of public safety, shall be certified by the department of public safety. An owner of an amusement device shall maintain and preserve a log of all regular maintenance schedules, service and repair reports, periodic inspections performed and any accident or injury which may have occurred on an amusement device which shall be made available upon request to the department of public safety.

### (g) Owner Responsibilities

(1) Owners shall maintain permanent and extensive training and inspection policies relative to routine and emergency procedures. All locations which have 35 or more amusement devices on the premises shall employ full-time emergency medical personnel and maintain ambulance services within the park. All owners shall have at least 1 individual on staff that is certified by the commissioner as qualified to oversee the operation, maintenance and inspection of amusement devices provided however that no minor shall operate an amusement device. The owner shall furnish to the commissioner proof that all mechanical and large inflatable amusement devices are covered for an amount of at least \$2,000,000 for combined single limit bodily injury and property damage and at least \$1,000,000 for small inflatable devices and which meet the rules and regulations as established by the commissioner. If the insurance contract expires or is cancelled, notice shall be furnished by the insurance carrier to the commissioner prior to the termination and the amusement device shall be closed until insurance is obtained and a new license issued. Operational programs and policies relative to the training, inspection, maintenance and safety of amusement devices shall be subject to review and modification by the commissioner or his designee. Proof of coverage shall include, but not be limited to, proof of liability insurance issued by an insurance company approved to do business within the commonwealth, or a bond security or other type of indemnity against liability providing substantially equivalent coverage.

### (h) Penalty for Violation

Whoever violates this section shall, for each such violation, be punished by a fine of not more than \$5,000 or by imprisonment for not more than 1 year, or both.

### (i) Retained Revenue account; Fees; Fines

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89       The department of public safety may collect and expend an amount not to exceed \$50,0000  
90       for the purpose of enforcement, training, and education of state inspectors; provided, that the  
91       department may charge fees for licensing, investigation, training, and overtime for inspections at  
92       the owner's request, and collect fines for violations of this section; and further provided that for  
93       the purposes of accommodating discrepancies between the receipt of retained revenues and  
94       related expenditures, the department may incur expense and the comptroller may certify for  
95       payment amounts not to exceed the lower of this authorization or the most recent revenue  
96       estimate as reported in the state accounting system.

97       SECTION 2. Section 60 of chapter 146 of the General Laws, as so appearing, is hereby  
98       amended by striking out, in line 2, the words "or an inspector of amusement devices".

99       SECTION 3. section 60 is hereby further amended by inserting after the word  
100       "administration", in line 5, the following sentence:- The application of a person desiring to act as  
101       an inspector of amusement devices shall be accompanied by a fee, the amount of which shall be  
102       determined annually by the commissioner of administration.